

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

**YOLANDA JOHNSON, INDIVIDUALLY AND
YOLANDA JOHNSON COURT APPOINTED
CONSERVATOR, FOR AND ON BEHALF OF
THE ESTATE OF RODNEY JOHNSON, ADULT WARD**

PLAINTIFFS

V.

CIVIL ACTION NO. 1:14CV26 -DAS

**MCELROY TRUCK LINES, INC.
AND ROY MERRITT**

DEFENDANTS

ORDER

This matter is before the court on plaintiffs' motion (#75) and seeks to quash defendants' subpoena *duces tecum* to the Mississippi Department of Public Safety ("Department"), which requests plaintiff's entire driving record. In support thereof, plaintiffs argue that the subpoena was filed well outside of the discovery deadlines set forth in the case management order. In response, defendants submit that they first became aware of an issue pertaining to plaintiff's driver's license during his deposition. This deposition occurred on the day immediately preceding the discovery deadline, and plaintiff's driving record was first placed at issue on April 16th, 2015 in plaintiffs' motion in limine (#73), thereby rendering defendants unable to obtain the evidence requested within the discovery deadline. Defendants also contend that none of the local rules provide that subpoenas *duces tecum* cannot be served on third parties after CMO discovery deadlines.

However, the subpoena at issue commands a non-party, the Department, to produce plaintiff's driving record. The Department is located in Jackson, Mississippi. Under the new version of Federal Rule of Civil Procedure 45, a motion to quash a subpoena must be brought in the court for the district in which compliance is required. *See* Fed. R. Civ. P. 45(d)(3)(A).

Therefore, the proper forum for plaintiffs' motion to quash is the United States District Court for the Southern District of Mississippi, Jackson Division.

IT IS THEREFORE ORDERED THAT plaintiffs' motion to quash is hereby denied for the reasons above.

SO ORDERED this, the 27th day of April, 2015.

/s/ David A. Sanders
UNITED STATES MAGISTRATE JUDGE